

IC 7.1-3-23

Chapter 23. Denial, Suspension, and Revocation of Permits

IC 7.1-3-23-1

No right to compel issuance

Sec. 1. No Right to Compel Issuance. An applicant for a permit of any type authorized by this title shall have no right to compel the issuance of a permit to him unless otherwise provided in this title.
(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-2

Fine, suspension, and revocation; general

Sec. 2. Fine, Suspension, and Revocation: General. The commission may fine, suspend, or revoke the permit, or fine and suspend or revoke, the permit of a permittee for the violation of a provision of this title or of a rule or regulation of the commission. The commission may fine a permittee for each day the violation continues if the violation is of a continuing nature.
(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-3

Maximum penalties

Sec. 3. The commission, pursuant to section 2 of this chapter, may impose upon a permittee the following civil penalties:

- (1) An amount of not more than four thousand dollars (\$4,000) for each violation if the permittee is a brewer or distiller.
- (2) An amount of not more than two thousand dollars (\$2,000) for each violation if the permittee is a wholesaler of any type.
- (3) An amount of not more than one thousand dollars (\$1,000) for each violation if the permittee is the holder of a permit of a type not listed in subdivision (1) or (2).

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.32-1988, SEC.3.

IC 7.1-3-23-4

Additional fine

Sec. 4. Additional Fine. The commission, if a fine imposed pursuant to IC 1971, 7.1-3-23-2, is not paid according to the order of commission, may suspend or add to the period of suspension of a permit in the following increments:

- (a) A period of one (1) day for each one hundred dollars (\$100) remaining unpaid if the permittee is a brewer or distiller;
- (b) A period of one (1) day for each fifty dollars (\$50) remaining unpaid if the permittee is a wholesaler of any type; and,
- (c) A period of one (1) day for each twenty-five dollars (\$25) remaining unpaid if the permittee is the holder of a permit of a type not listed in (a) or (b) of this section.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-5

Revocation of permits; general

Sec. 5. Revocation of Permits: General. The commission shall revoke a permit of any type only on account of the violation of, or refusal to comply with, a provision of this title, or of a rule or regulation of the commission.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-6**Revocation of permits; procedure**

Sec. 6. Revocation of Permits: Procedure. The commission shall give at least ten (10) days notice to the holder of the permit proposed to be revoked. The notice shall inform the holder of the time and place of the hearing to be held in regard to the proposed revocation. Unless otherwise provided in this title, all further procedures with reference to the revocation of a permit shall be prescribed by rule and regulation of the commission.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-7**Suspension; general rule**

Sec. 7. (a) Except as provided in subsection (b), the commission, after notice and hearing, and for cause other than that expressly provided in this title, may suspend a permit to manufacture, transport or sell alcoholic beverages for not longer than thirty (30) days for the violation of a provision of this title, or for the failure or the refusal to comply with a rule or regulation of the commission.

(b) This subsection applies to an individual charged with a Class B misdemeanor for violating IC 7.1-5-10-15(a). Upon receiving notice of charges filed under IC 7.1-5-10-15(a), the commission:

- (1) shall hold a hearing under section 6 of this chapter; and
- (2) may suspend the permit of the individual charged with the violation until disposition of the charges.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.125-2000, SEC.3.

IC 7.1-3-23-8**Procedure applicable**

Sec. 8. A proceeding before the commission which could result in the revocation or suspension in excess of three (3) days of the permit of a permittee authorized to sell alcoholic beverages at retail shall be conducted in the manner prescribed in section 6 of this chapter.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.100-1983, SEC.2; P.L.7-1987, SEC.8.

IC 7.1-3-23-9**Judicial review**

Sec. 9. Whenever the permit of a permittee authorized to sell alcoholic beverages at retail is revoked or suspended in excess of three (3) days by action of the commission, the aggrieved permittee may seek judicial review of the action by following IC 4-21.5-5,

except that the action for judicial review shall be filed in the circuit or superior court having jurisdiction in the county in which the licensed premises are located.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.100-1983, SEC.3; P.L.7-1987, SEC.9.

IC 7.1-3-23-10 Repealed

(Repealed by P.L.100-1983, SEC.8.)

IC 7.1-3-23-11

Nonrenewal; judicial review available

Sec. 11. Whenever an application for the renewal of a permit to sell alcoholic beverages at retail, except a temporary beer or wine permit, is denied by the commission, the applicant may seek judicial review of that action by following IC 4-21.5-5, except that the action for judicial review shall be filed in the circuit or superior court having jurisdiction in the county in which the licensed premises are located. However, this section shall not apply to a denial of a transfer of a permit to either another holder or location, or both.

(Formerly: Acts 1973, P.L.55, SEC.1; Acts 1973, P.L.59, SEC.6.) As amended by P.L.7-1987, SEC.10.

IC 7.1-3-23-12

Cessation of qualifications

Sec. 12. Cessation of Qualifications. The commission may revoke the permit of a permittee if he at any time ceases to possess any of the qualifications, including the alteration or cessation of the particular business or type of business then engaged in, which qualifies him to hold that permit, required for the issuance of that particular type of permit under this title.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-13

Location of premises

Sec. 13. Location of Premises. The commission may void a permit issued upon an application not fully disclosing the true facts in respect to the location of the premises for which the permit applied for is to be applicable.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-14

Revocation for refusal to allow examination

Sec. 14. Revocation for Refusal to Allow Examination. The commission shall revoke the permit of a person, or refuse to issue a permit to a person, who refuses to permit the lawful examination of his books, papers, and records, or the investigation and examination of his premises by the commission.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-15

Repealed

(Repealed by P.L.250-2003, SEC.18.)

IC 7.1-3-23-16

Revocation upon conviction

Sec. 16. The commission may revoke a wholesaler's, retailer's, or dealer's permit of any type after final judgment of conviction for an offense defined in this title. The commission may revoke the permit of a wholesaler, retailer, or dealer upon a second violation of a provision of this title whether a judgment of conviction ensues or not.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.250-2003, SEC.12.

IC 7.1-3-23-17

Revocation for possession of wagering stamps

Sec. 17. Revocation for Possession of Wagering Stamp. The commission shall revoke the permit of a retail permittee who purchases, holds, or has in his possession a wagering occupational tax stamp issued by the United States internal revenue authorities.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-18

Revocation for illegal influence

Sec. 18. Revocation for Illegal Influence. The commission shall deny the application, or revoke the permit, of an applicant or permittee who violates the provisions of IC 1971, 7.1-5-5-1.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-19

Revocation for allowing minor on premises

Sec. 19. Revocation for Allowing Minor on Premises. The commission shall revoke the permit of a person who violates a provision of IC 1971, 7.1-5-7-14, and that person shall be ineligible to obtain another permit thereafter.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-20

Revocation for false information of interested parties

Sec. 20. The commission shall deny the application, or revoke the permit, of a person who:

(1) includes on the list of interested parties required to be filed by IC 7.1-3-21-8, a:

(A) fictitious name; or

(B) a person disqualified under this title from having an interest in an alcoholic beverage permit; or

(2) omits from the list the name of a person whose name should be on it.

The commission shall take the same action if the applicant or permittee fails to keep the list current as required by that section.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.204-2001, SEC.40.

IC 7.1-3-23-21

Revocation upon petition

Sec. 21. Revocation upon Petition. The commission shall revoke the permit of a retail permittee upon the petition of sixty-six per cent (66%) of the registered voters of a township or precinct stating that the permittee within that township or precinct has been convicted, either before a court or the commission, of a violation of a provision of this title. However, this section shall not apply to the permit of a bona fide fraternal club.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-22

Contents of petition

Sec. 22. Contents of Petition. The petition authorized by IC 1971, 7.1-3-23-21, shall be addressed to the commission and shall specify the name and business address of the permittee against whom the petition is directed. The petition shall bear on each page the name and address of the circulator of the petition, who shall be a registered voter in the particular township or precinct, together with the notarized attestation of the circulator that the signatures obtained on the petition were obtained only after a full and clear explanation of the purpose of the petition. The petition also shall bear the certification of the clerk of the circuit court of the county in which the township or precinct is located attesting that the signatures on the petition are those of duly registered voters of the particular township or precinct together with a statement by the clerk as to the total vote cast in that township or precinct for the office of secretary of state in the last preceding general election for that office.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-23

Revocation for prohibited interest; beer

Sec. 23. (a) This section applies to a brewer that manufactures more than twenty thousand (20,000) barrels of beer in a calendar year.

(b) The commission shall revoke the permit of a brewer or beer wholesaler who holds an interest in another permit in violation of IC 7.1-5-9-3.

(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.88-1993, SEC.4.

IC 7.1-3-23-24

Revocation for prohibited interest; liquor

Sec. 24. Revocation for Prohibited Interest. The commission shall revoke the permit of a distiller, rectifier, or liquor wholesaler who holds an interest in another permit in violation of IC 1971, 7.1-5-9-6.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-25**Revocation for violation of agreement**

Sec. 25. Revocation for Violation of Agreement. The commission, after notice and hearing, may suspend for no more than thirty (30) days, or revoke, an agreement and bond filed pursuant to IC 1971, 7.1-3-2-4, and 7.1-3-2-5, if the principal violates his agreement with the commission. The commission also may take action on the bond if it revokes the agreement. A principal whose agreement and bond is suspended or revoked by the commission may seek judicial review of that action as provided in this chapter.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-26**Repealed**

(Repealed by P.L.100-1983, SEC.8.)

IC 7.1-3-23-26.1**Violations related to minors; revocation or suspension of permit; fines; written findings and conclusions**

Sec. 26.1. (a) A retailer or dealer permittee who violates IC 7.1-5-7-4 or IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have his permit suspended, or be fined and have his permit suspended, as determined by the commission; however, if the penalty imposed by the commission exceeds a fine and three (3) day suspension, the commission must issue written findings of fact and conclusions which show the necessity of the penalty. If the retailer or dealer permittee commits a subsequent violation of the provisions listed in this subsection within twelve (12) months of the first violation, the commission may fine the permittee, fine him and suspend his permit, or revoke his permit; however, if the penalty exceeds a fine and suspension of more than fifteen (15) days, the commission must issue written findings of fact and conclusions which show the necessity of the penalty.

(b) The holder of an employee permit who violates IC 7.1-5-7-4 or IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have his permit suspended, be both fined and have his permit suspended, or have his permit revoked, as determined by the commission.

As added by P.L.100-1983, SEC.4.

IC 7.1-3-23-27**Revocation for violation of order**

Sec. 27. Revocation for Violation of Order. The commission may revoke the permit of a permittee for the violation of an order entered by it pursuant to IC 1971, 7.1-2-7. A revocation under this section may be made after not less than ten (10) days' notice to the permittee. The notice shall inform the permittee of the time and place of the hearing to be held in regard to the proposed revocation. The further procedure in regard to a revocation under this section shall be prescribed in the rules and regulations of the commission.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-28

Revocation for violation of injunction

Sec. 28. Revocation Re Violation of Injunction. The commission may suspend or revoke the permit of a permittee if the court finds that the permittee has violated any of the provisions of an injunction issued by it under the provisions of IC 1971, 7.1-3-3-17.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-29

Revocation for taxes and bonds

Sec. 29. Revocation Re Taxes and Bonds. The commission may revoke the permit of a manufacturer or wholesaler of alcoholic beverages for the failure to pay the taxes when required to do so by this title, or for the failure to keep in force the bond required of the applicant for his particular permit. The action of the commission in these matters shall be final.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-30

Denial of wholesalers' permit

Sec. 30. Denial of Wholesalers' Permit. The commission shall not deny, fail to renew, or revoke a wholesaler's permit of any type on arbitrary, capricious, or political grounds.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-31

Appeal by applicant for wholesalers' permit

Sec. 31. Appeal by Applicant for Wholesalers' Permit. An applicant aggrieved by the action of the commission in denying, failing to renew, or revoking, a wholesaler's permit of any type, contrary to the provisions of IC 1971, 7.1-3-23-30, shall have the right to secure a review of that determination by petition to the superior court of Marion County under the same conditions and in the same manner and mode of procedure as provided in this chapter for other appeals. The judges of the superior court of Marion County, or a majority of them sitting in the action for review, shall, from the evidence presented, determine if the applicant has been denied a permit or renewal, or has had his permit revoked, on arbitrary, capricious, or political grounds and if they so determine shall issue a writ of mandate ordering the commission to issue, renew, or reinstate the permit. However, either party shall have the right of appeal from the judgment of the superior court of Marion County as an appeal is taken in a civil action.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-32

Notice to permittee in certain cases

Sec. 32. Notice to Permittee in Certain Cases. The commission

shall give notice of its proposed action to the applicant or permittee if the commission determines not to issue or renew a manufacturer's or wholesaler's permit, or if the commission determines to take action to revoke or suspend a manufacturer's or wholesaler's permit after it has been issued.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-33

Right to a public hearing

Sec. 33. Right to a Public Hearing. A person who receives a notice given pursuant to IC 1971, 7.1-3-23-32, shall have the right to a public hearing at the time and place fixed in the notice and he shall be permitted to be heard and offer evidence. The evidence may be written, in the form of affidavits, or parol. Unless the commission provides a reporter to take and transcribe the parol evidence, the notice shall inform the person that no reporter will be provided but that he has the right to have a reporter present at his own expense. The evidence, transcribed and verified by the reporter, or the written evidence offered and accepted by the commission, or both, shall be filed and become a part of the record of the proceedings.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-34

Final action of commission

Sec. 34. Final Action of Commission. The commission shall take final action within ten (10) days after the hearing and enter an appropriate order in the matter and shall notify the applicant, or permittee, of its action by registered mail.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-35

Court review available

Sec. 35. Court Review Available. The applicant, or permittee, within ten (10) days of the receipt of the commission's notice of final action, may appeal to the circuit or superior court of Marion County, from the final order of the commission denying, suspending, or revoking his manufacturer's or wholesaler's permit of any type. However, an applicant for the original issue or renewal of a wholesaler's permit shall have the right to appeal to the superior court of Marion County but not to the circuit court of Marion County.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-36

Initiation of appeal

Sec. 36. Initiation of Appeal. The appeal shall be taken by the applicant, or permittee, by filing written notice of his intention to appeal from the final order of the commission to the appropriate court, and by filing a bond with the commission in the penal sum of one thousand dollars (\$1,000), conditioned that he will prosecute his

appeal to effect, and will pay the costs of the proceedings upon appeal, and that he will pay all necessary expenses incurred by the commission as a result of the appeal if the order of the commission is affirmed.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-37

Appeal bond

Sec. 37. Appeal Bond. The appeal bond filed with the commission by an applicant, or permittee, shall be a corporate bond secured by a surety company duly authorized to do business in Indiana, or by freehold sureties, shown by verification or otherwise, to be worth in unencumbered real estate located within the county of the applicant, or permittee, appealing, over and above all indebtedness, twice the amount of the bond.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-38

Transmission of record

Sec. 38. Transmission of Record. The commission, within ten (10) days after the filing of the notice of appeal and the appeal bond with the commission, shall transmit the papers, files, written evidence and the transcript of the hearing, to the clerk of the court to which the appeal is taken. The entire contents of the record transmitted by the commission shall be duly verified by certificate of the commission.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-39

Stay of suspension or revocation; general rule

Sec. 39. Stay of Suspension or Revocation: General Rule. The final order of revocation or suspension entered by the commission shall be stayed for ten (10) days from the date of the final order whenever a manufacturer's or wholesaler's permit of any type is revoked or suspended for more than fifteen (15) days by order of the commission.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-40

Stay pending appeal

Sec. 40. Stay Pending Appeal. The final order of suspension or revocation shall be stayed, when the proper procedures for taking an appeal have been complied with, until the appeal has been disposed of finally, or until the appeal has been dismissed for lack of prosecution.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-41

Trial

Sec. 41. Trial. The action shall be entered upon the civil docket of the court to which the appeal is taken naming the appellant applicant,

or permittee, as plaintiff, and the commission as defendant. No formal pleadings shall be required and the case shall be set for hearing by the court, without a jury, as soon as possible. The cause may be determined upon hearing upon the evidence offered before the commission and as certified by the commission, or additional evidence may be offered by either party. The court shall enter an order, after the hearing, sustaining or setting aside the final order of the commission. If the court sets aside an order of the commission denying a permit, the court, in its order, shall direct the issuance of the permit.

(Formerly: Acts 1973, P.L.55, SEC.1.)

IC 7.1-3-23-42

Continued operations during stay

Sec. 42. Continued Operations During Stay. A permittee during the period that the order of suspension or revocation is stayed under IC 1971, 7.1-3-23-39, or 7.1-3-23-40, shall be fully authorized and entitled to continue to do business under his permit as though his permit had not been suspended or revoked and without being liable in any manner, criminally or civilly, on the ground of operating his business without a proper permit.

(Formerly: Acts 1973, P.L.55, SEC.1.)